THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3210 OF 2006

Dated: 20-02-2006

Between

K. Sai Baba, S/o. K. Harishchandrudu,

Occ: Service, R/o. Flat No.501, House

No.12-13-830/13/B, Secunderabad.

...PETITIONER

AND

The Government of Andhra Pradesh,

Rep. by its Secretary, Municipal

Administration Department, Secretariat,

Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the second respondent in issuing notice No.269/TP7/1994-2005 dated 18.02.2006 for demolition of the Pent House bearing Municipal

No.12-13-830/13/B/501(Pent-1) as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner purchased the pent house situated on the fifth floor of the S.S.R. Apartments, bearing the aforementioned municipal

number from S.S.R. Constructions in the year 1997. He further submits that when the petitioner came to know that there is no sanction permission for the pent house, he approached the second respondent for regularization of the pent house by paying an amount of Rs.10,000/-, pursuant to the G.O.Ms.No.503 MA dated 04.09.1998 issued by the Government for regularization of unauthorized constructions, for which the office of the second respondent issued receipt No.13779/E3/HO/98 dated 12.09.1998. While so, the second respondent issued notice under Section 636 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') vide No.269/TP7/1994-2005 dated 18.02.2006 informing the petitioner that permission for construction of stilt for parking + 5 floors for residential flats in premises No.12-13-830/13/B, Tarnaka, Secunderabad has been obtained vide permit No.50/14 of 1996 in file No.269/TP7/1994 dated 23.09.1996 but contrary to the said permit the pent house over and above the fifth floor has been constructed unauthorizedly and the petitioner was directed to remove the structure within 24 hours failing which the department will take appropriate action.

Learned counsel for the petitioner further submits that without giving any opportunity to the petitioner to explain as to whether the said pent house has been regularized or not and without considering his previous application for regularization in accordance with the provisions of G.O.Ms.No.503 MA dated 04.09.1998, the action of the respondents in trying to demolish the pent house is illegal.

Having regard to the facts and circumstances of the case,
the petitioner is directed to file an explanation/representation pursuant to the impugned notice within one week from today and on such an explanation/representation being filed, the third respondent shall consider the same and pass appropriate orders within one week thereafter and till then status quo obtaining as on today shall be continued.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

February 20, 2006

Note: Furnish C.C. of the order by 21.02.2006

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DSK